

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

IN RE: COMPLAINT OF DISCOUNT)
COMMUNICATIONS, INC.)
AGAINST BELL SOUTH)
TELECOMMUNICATIONS, INC.)

RECEIVED
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Docket No. 00-00230
EXECUTIVE SECRETARY

DISCOUNT'S RESPONSE TO BELL SOUTH'S PETITION FOR RECONSIDERATION

Discount Communications, Inc. ("Discount") files the following response to the Petition for Reconsideration filed by BellSouth Telecommunications, Inc. ("BellSouth").¹

I. BellSouth's Petition reiterates the same arguments which were made in BellSouth's pre- and post-hearing briefs. The TRA considered and rejected those arguments when it concluded that the parties' resale agreement permits Discount to purchase access line service at a 16% wholesale discount rate which, as the TRA intended, includes access to BellSouth's operator and directory assistance services. As the TRA explained in its final Order (at 9-10):

[U]nder the 16% discount rate option, BellSouth was obligated to provide access to and usage of directory assistance service. The prospect of BellSouth providing these services served as an inducement for resellers to choose the lesser discount.

That is the heart of the matter. As BellSouth itself has acknowledged, when the TRA fixed the wholesale discount rate in 1997, the 16% figure applied to "bundled" access line service

¹ Under the TRA's new procedural rules, any party opposing a motion shall file and serve a response within seven (7) days after service of the motion. See 1220-1-2-.06(2). BellSouth filed the Petition on October 12, 2000, and faxed a copy to counsel for Discount that same day.

which “include[d] operator services and directory assistance.” BellSouth Petition, at 7. Should a reseller elect the option of providing its own operator services and directory assistance, the reseller could purchase a cheaper, “unbundled” access line at a 21.56% wholesale discount. As the TRA found (Order, at 9-10), carriers like Discount were “induce[d]” to select the more expensive option because it included BellSouth’s operator services and directory assistance. That was certainly Discount’s understanding of the resale agreement at the time the agreement was signed.

While attempting, once again, to discredit the testimony of Discount president Ed Hays concerning his understanding of the resale agreement (Petition, at 17-20), BellSouth refuses to acknowledge, much less answer, Mr. Hayes most compelling argument. Given the nature of the pre-pay telephone business and the federal prohibition against blocking directory assistance to Lifeline customers, it is self-evident that Discount would never have signed the resale agreement unless Discount believed that the wholesale price of an access line included access to BellSouth’s operators and directory assistance. Consequently, the company was “blind-sided” five months after the resale agreement was signed when BellSouth began charging for directory assistance. Tr. I, at 261. BellSouth, of course, cannot unilaterally amend the terms of an interconnection agreement after it has been submitted to and approved by the TRA pursuant to federal law. Otherwise, the arbitration and agreement approval process would be meaningless.

Contrary to BellSouth’s representations, Discount is not a “typical” reseller of local telephone service. It is both a pre-pay provider and the only reseller in the state trying to reach Lifeline customers. Without the ability to block directory assistance calls, Discount would be

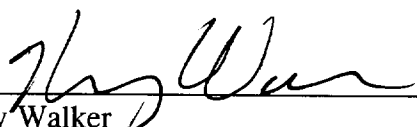
faced with unlimited financial exposure if BellSouth were allowed to charge for directory assistance calls. As even BellSouth must acknowledge, Discount would never have voluntarily agreed to such a plan.

Finally, Discount objects to the first part of BellSouth's Petition entitled "Status of Discount's Debt" and asks that it be struck from the record. The allegations made there have nothing whatsoever to do with the issues addressed in the final Order or in the Petition for Reconsideration. They are obviously an attempt by BellSouth to prejudice the agency based on incomplete and irrelevant information. Such tactics only fuel Discount's suspicion that BellSouth is apparently determined to use whatever means are necessary to ruin its tiny competitor.

For these reasons, BellSouth's Petition to Reconsider should be denied.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U. S. First Class Mail, facsimile, and/or hand delivery, to the following on this the 19th day of October, 2000.

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Henry Walker

A handwritten signature in dark ink, appearing to read 'Henry Walker', is written over a horizontal line.